IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Crl.MC.No. 3474 of 2007()

CC.869/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: ACCUSED

P.T.MOHAN BABU, S/O.THOMAS VAIDHYAN,
DIRECTOR, M/S.JOHAN PLASMETS (P) LTD.,
RESIDING AT JAYABHARATHAM, PUNALUR,
KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT AND STATE

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1. KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LIMITED (KSIDC), CHOICE TOWERS, MANORAMA JUNCTION, KOCHI-16, REPRESENTED BY ITS DEPUTY MANAGER (LEGAL), MRS.V.R.USHA.

2. STATE OF KERALA, REPRESENTED BY THE SUB INSPECTOR OF POLICE, PUNALUR POLICE STATION, KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3474 of 2007

Dated this the 26th day of November 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance was taken as early as in 2004 as can be seen from the number assigned to the case, that is C.C.No.869/2004. The petitioner has come to this court now with a submission that he is taking steps to settle the disputes with the complainant. The complainant has entered appearance; but it is evident from the submission of both parties that the matter has not been settled so far. If the matter is settled, it is for the complainant to either withdraw the case or to report composition. I find absolutely no merit in this application filed under Section 482 Cr.P.C. I find no reason to quash the proceedings even assuming that the matter has been settled between the parties. The offence is compoundable. The case can be withdrawn also. There is absolutely no necessity for rushing to this court with this petition under Section 482 Cr.P.C. Warrants of arrest issued by the learned Magistrate are chasing the petitioner. The

petitioner further submits that if he is given a month's time, he shall settle the disputes and report composition before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007